

# A JOINT JURISDICTIONAL APPROACH TO SUBSTANCE USE DISORDERS AND CHILD WELFARE



WALTER  
CONSULTING

# AGENDA

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Overview- What is a Joint Jurisdictional Court? (Jenny)

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Background- How it all started (Korey)

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Northern California's Experience (Jenny)

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Hoopa-Humboldt Joint Jurisdiction Court (Leona)

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Resources to Replicate the Approach (All)

## OVERVIEW

### WHAT IS A JOINT JURISDICTIONAL COURT?

- Two Judges Hear Cases Together
- Under Laws of: Tribe, State, Federal Govt
- In Non-adversarial Setting
- Blending Tribal Healing to Wellness and Collaborative Court Approaches
- Family Wellness Team
  - Coordinates Tribal and County Services
  - Culturally Attuning Services
  - Tailoring them for each family

NOT JUST A TRIBAL HEALING TO  
WELLNESS COURT  
NOT JUST A COLLABORATIVE COURT

Jurisdiction is exercised jointly when a tribal court judge and a state or federal court judge come together to exercise their respective authority simultaneously, bringing together justice system partners and leveraging resources to promote healing and protect public safety.

## WHEN TO USE THE JOINT JURISDICTIONAL COURT APPROACH?

- When both sovereigns have jurisdiction
- When the judicial leaders believe they can reimagine a better way
- When there is some level of partnership readiness to work together

## REIMAGINE JUSTICE

Follow in the Footsteps of Other Judges' and Partners'

- Adult Drug Court (DUI/DWI)
- Juvenile- Diversion, Delinquency, Re-Entry
- Juvenile Dependency (also called Family Drug Court)
- Any Case Type.....

# WHERE ARE JOINT JURISDICTIONAL COURTS?

Alaska: Kenaitze Indian Tribe-Alaska Court System

## California

Shingle Springs Band of Miwok Indians – El Dorado County Superior Court

Yurok Tribe-Humboldt Superior Court/Del Norte Superior Court

Hoopla Tribe-Humboldt Superior Court

Karuk Tribe- Humboldt Superior Court

## Minnesota

Leech Lake Ojibwe- Cass County & Itaska County

White Earth Nation and Mahnomen County District Court

## Montana

Northern Cheyenne Tribe and the U.S. District Court (Yellow Stone)

New York/Canada: St. Regis Mohawk-U.S. and Canadian courts

## Wisconsin

Ho Chunk Nation-Jackson County

Forest County Potawatomi-Forest County

## BACKGROUND

Where it all Began-

“Poverty, addiction,  
and hopelessness  
know no jurisdictional  
boundaries”





**NATIVE AMERICANS ARE ONLY 2% OF MINNESOTA'S POPULATION, BUT....**

- HAS MORE NATIVE AMERICANS ON PROBATION THAN ANY OTHER STATE
- Account for 32% of all arrests in Northern Minnesota
- Make up 26% of the people on felony probation in MNDOC's Northern District
- Make up 47% of people on felony probation in the Ninth Judicial District

## LEECH LAKE BAND OF OJIBWE TRIBAL COURT

- 1970's established as Conservation Court
- 1980 added ICWA cases
- By 2006 handling civil, traffic, conservation, housing, dangerous dog, child protection, truancy, minor consumption, curfew
- 2009-10 added Tax Code, Family Law (divorce/custody), Probate
- No criminal codes – “building incrementally”
- Use of technology – Videoconferencing

## CASS COUNTY

- 2000-2005: 21% increase in felony DWI's
- Worst outcomes in state for children (9th graders)
  - 1st for sexually active teens
  - 2nd for out-of-home-placement and attempted suicides
  - 3rd for drinking and driving
  - 3rd for children living in poverty

## COMMON GOALS

- Reducing disproportionate minority contact
- Fewer children in out of home placement
- Addressing the epidemic of drug and alcohol abuse
- Reducing number of DWI's and traffic fatalities

## CASS COUNTY – LEECH LAKE WELLNESS COURT

- **First Joint Jurisdiction Court in the Nation-  
Cass County, replicated in Itaska County**
- Created in 2006 to address epidemic of alcohol-related crashes, deaths in Cass County
- Clients include Tribal Members and Non-Indians
- Holds Wellness Court sessions by ITV in Walker and Cass Lake
- Multi-jurisdictional, multi-agency participation
- Operated on handshake for over a year

**JOINT JURISDICTIONAL COURT**  
**OPEN TO TRIBAL MEMBERS AND NON-INDIANS**  
**LIVING ON LEECH LAKE RESERVATION**

## **FAMILY/DEPENDENCY CASES**

Child Protection Involvement in Tribal Court or State Court

## **JUVENILE DIVERSION CASES**

Cass County Probation Supervision Under Cross-appointment Order

Leech Lake Members are Diversion Board

Circle Format- Team and Family Problem-Solving Together

## **JUVENILE DELINQUENCY CASES**

Leech Lake Tribal Court Exercises Expanded Jurisdiction Over Parents

Leech Lake Tribal Court Case Managers Provide Services

Cass County Probation Supervision Under Cross-appointment Order

## **JUVENILE RE-ENTRY CASES**

Involuntary Placement in Inpatient Treatment or Juvenile Detention Facility

Cass County Probation Provides Risk/Needs Assessments and Notifies Leech Lake

Leech Lake Wraparound Care Coordinator/ Advocates Work with Youth/Family Before Placement and Upon Return

## WELLNESS COURT SUCCESS STORIES IMPROVED OUTCOMES BETTER TOGETHER

- Participants reunited with children/families
- Valid driver's licenses
- Employment/school
- Ending abusive relationships
- Participants have tens of thousands of days of documented sobriety between them
- Significant reduction in recidivism –
  - Leech Lake/Cass as low as 6.66% Leech Lake/Itasca 16%

(cf. Minnesota/National 60%+ & Millions of dollars saved in incarceration and out of home care costs)



# NORTHERN CALIFORNIA EXPERIENCE

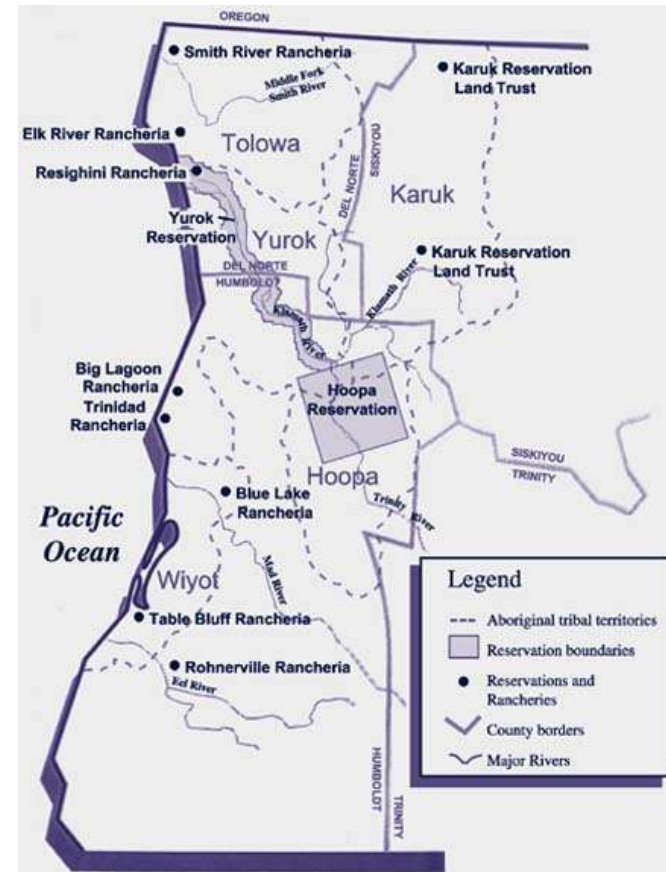
Northern CA Tribal  
Court Coalition  
(NCTCC)

Yurok-Humboldt First

Yurok-Del Norte

Hoopa-Humboldt

Karuk-Humboldt



## NORTHERN CALIFORNIA: CHOOSING THE CASE TYPE AND REPLICATING THE APPROACH



## TARGET POPULATIONS

- CA Judicial Council Innovation Grant
- CAPTA Dollars through the Children's Bureau (QIC Grant)

National initiative to address the needs of infants and families affected by substance use disorders and prenatal substance exposure. Lead agency is the Center for Children and Family Futures and its partners, the National Center for State Courts, Advocates for Human Potential, American Bar Association Center on Children and the Law, and the Tribal Law and Policy Institute

## PARADIGM SHIFT

### **Current State/County Justice Systems- generally**

- Lack of access to culture/spirituality and to our home communities
- Higher percentage of alcohol and drug related behavior resulting in imprisonment.
- Overreliance on pushing kids out and punishment
- Overreliance on incarceration and lack of a therapeutic approach to justice

IN CALIFORNIA WE ARE MAKING A SHIFT AND  
DESIGNING NEW LOCAL JUSTICE SYSTEMS THAT  
EMPOWER FAMILIES

- Respect for different traditions
- Healing individual and community trauma
- Access to tribe-specific culture/spirituality in our home communities
- Move away from punishment to healing
- Move away from supporting our families in silos to a coordinated team/extended family approach
- Conclusion: We have been facing the wrong way!

HOOPA-  
HUMBOLDT  
JOINT  
JURISDICTION  
COURT



## LEGAL CONTEXT

### WHAT CAN HAPPEN WHEN TWO JUDGES EXERCISE JURISDICTION CONCURRENTLY?

- Under PL 280, state courts in California generally have jurisdiction over dependency cases involving Indians and Indian children, even if the events occur in Indian country.
- However, this jurisdiction is affected by the requirements of the Indian Child Welfare Act (ICWA) and the fact that tribes may also exercise jurisdiction over these matters.
- Under ICWA (25 U.S.C. § 1911), tribal jurisdiction is exclusive where a child is already the ward of a tribal court. ICWA recognizes presumptive tribal jurisdiction over cases involving Indian children who are not already wards of a tribal court and requires full faith and credit for and between tribal and state courts

## CHILD WELFARE CONTEXT WHY FOCUS ON SUBSTANCE ABUSE?

- **There is a consistent link between child welfare issues and substance abuse in the family-80-90%**
- Children in the child welfare system whose parents have substance abuse problems are
  - Younger than other children in the system
  - More likely to be the victims of neglect rather than abuse
  - More likely to be placed in foster care rather than served while remaining at home.



## WHAT DOES THE SCIENCE TELL US? TREATMENT WORKS!

- Rate of abstinence from drugs of abuse is comparable to medication compliance in diabetes and hypertension
- Brief interventions in pregnancy are as effective as traditional treatment modalities.
- Interventions in prenatal care setting significantly reduce rates of low birth weight, prematurity, newborn seizures, NICU admissions, infant mortality, and long term intellectual disabilities in the child
- Early intervention for children affected by prenatal substance exposure significantly enhances the child's long-term developmental trajectory
- Interventions attuned to protective factors, like community and culture builds resilience and improves outcomes.

## HOW TO MAKE IT WORK

- Tribal Engagement
  - Council and Community
- County Engagement
  - Breaking down Siloes
- Tribal/County Relationships
  - Stakeholder meetings
  - Keeping eye on the prize with focused action planning
  - Addressing challenges

## KEY COMPONENTS

- Identifies Families Early
- Provides Timely Access to Assessment and Treatment Services
- Uses Treatment Strategies That Have Proven Successful
  - Family Mentors
  - Evidenced-based and trauma-informed
  - Culturally attuned treatment services for parents, children, and families, tapping their resiliencies by strengthening their connection to their tribes

## KEY COMPONENTS CONTINUED

- Frequent Two Judge Contact with Families
  - Single biggest influence on the success of participation
- Therapeutic and Motivational Responses
  - Parents have a brain disorder that influences their thinking and actions
  - We know they are going to mess up, but “we are there to catch them when they stumble”
- Tribe-Specific and Culturally Appropriate Responses
  - Based on phase of program and length of sobriety
  - Informed by tribal values
  - Tailored for each family with the family

## GOALS AND ACCOMPLISHMENTS

- Tribal/County relationships are strengthened
- Tribal Sovereignty is better understood and strengthened
- Title IVE Agreements are advanced
- Cultural/Community ties are reconnected and strengthened
- Silos are broken down across departments in a County and inter-jurisdictionally between the Tribe and County
- Leveraged services and new services– Road to Resilience

## RESOURCES AND DISCUSSION

Healing to Wellness  
Collaborative Courts  
Joint Jurisdiction  
Trauma Informed  
Practices  
Indigenous Healing



## HEALING TO WELLNESS & COLLABORATIVE COURTS

Tribal Healing to Wellness (produced by Tribal Law and Policy Institute) and Family Dependency Treatment Courts (produced by CA Association of Collaborative Courts and American Bar Association)

- [www.wellnesscourts.org/tribal-key-components/index.cfm](http://www.wellnesscourts.org/tribal-key-components/index.cfm)
- [www.ca2c.org/defining-drug-courts-ten-key-components/](http://www.ca2c.org/defining-drug-courts-ten-key-components/)
- <https://cff-cav56vrdcl.netdna-ssl.com/wp-content/uploads/2018/07/Seven-Common-Ingredients-for-Family-Treatment-Courts.pdf>

## FAMILY DEPENDENCY TREATMENT COURTS

- Tutorials produced by the National Center for Substance Abuse and Child Welfare
  - [Tutorial 1: Understanding Child Welfare and the Dependency Court: A Guide for Substance Abuse Treatment Professionals](#)
  - [Tutorial 2: Understanding Substance Use Disorders, Treatment, and Family Recovery: A Guide for Child Welfare Professionals](#)
  - [Tutorial 3: Understanding Substance Use Disorders, Treatment, and Family Recovery: A Guide for Legal Professionals](#)



## JOINT JURISDICTION COURTS

- The New Face of Justice: Joint Tribal-State Jurisdiction, Washburn Law Journal (Vol. 47, No. 3, Spring 2008)
- Building a Legacy of Hope: Perspectives on Joint Tribal-State Jurisdiction, William Mitchell Law Review (Vol. 36 , Issue 2, 2010)
- “Joint Jurisdiction Courts:A Manual for Developing Tribal, State & Federal Justice Collaborations” (2nd Edition) Available at [www.walkingoncommonground.org](http://www.walkingoncommonground.org)

## TRAUMA-INFORMED PRACTICES

- Trauma-Informed Practices and Tribal Families produced by SAMHSA  
<https://ncsacw.samhsa.gov/resources/trauma/tribal-families-and-trauma-exposure.aspx>
- National Child Traumatic Stress Network (NCTSN)

## INDIGENOUS HEALING

Produced by Capacity Building Center for Tribes:  
<https://www.youtube.com/playlist?list=PLR4JDLysJ7WOiKV9DRP5IWOLII7TaKlek>

- [1. We Are All Connected](#)
- [2. Individual & Family Healing](#)
- [3. Community & Organizational Healing](#)

Indigenous Cultural Wellbeing Measures Literature Review, compiled by Lisa G. Dirks, Southcentral Foundation (2016)

THANK YOU!

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